App. F. IX-4

Previous References.

1943.
(Legis)

File No. 15-43
Serial Nos. 1

Later References.

60

GENERAL AND REVENUE SECRETARIAT

Serial Nos.

Part B for Aug 1943

SUBJECT

The Code of Civil procedure (Second Amendment) Act, 1943 (XL of 1943)

To the compilation volume gazette
No BL 191- Legis 15-43-1- dated 11th Aug 1943

Article on publication of the Act as
Act No XL of 1943

15/10/43

2402/41

THE LAW ASSOCIATION.

CHIEF SECRETARY. * 3 - NOV. 1941 * GOVT. OF MYSORE.

GEN'L & REV. SECRETARIAT * 3 NOV 1941 * PROTECTED SECTION

DISTRICT OFFICE BUILDINGS,

Banaalore City, 29-10-1941 19

To

The Chief Secretary
to the Government of Mysore.

Sir,

As directed by the Executive Committee of the Law Association, Bangalore, I have the honour to submit through your good self the following representations to the Govt. and to request that they be pleased to bestow their earliest and best attention to the same:-

1) That the Government be pleased to issue instructions to the several Deputy Commissioners that they should see to the expeditious execution of decrees for partition sent to them by Civil Courts under S. 54 and O. 20, r. 18, Civil Procedure Code. (At present there is, in a large number of cases so sent, inordinate delay in effecting ~~the~~ partition).

2) That the Government be pleased to issue similar instructions to Presidents of the various Municipalities and to the Municipal Commissioner of Bangalore City as regards expeditious execution of decrees for partition sent to them by Civil Courts under S. 54A, Civil Procedure Code.

3) That the Government be pleased to see that there is an adequate stock, for sale, of every one of the Acts of the Government of Mysore and also of Rules framed thereunder by Government, at the Central Book Depot, Bangalore.

4) That the Government be pleased to direct that Acts

(P.T.O.)

Serial No.

Chief Secy's file for further action.

2) As regards the Rule requested at paras 1 & 2 rules are solicited the matter pertains to Civil Courts and as such the remarks of the High Court may perhaps be called for if so advised.

Draft 3/11

3) Items 3.4.5 may be sent to the Legal Secy for further action, as the request seems to be reasonable.

4) As re: 1 & 2 the Hon'ble Chief Secy may be consulted. I do feel that there is inordinate delay in the part of the Revenue authorities to execute decrees for partition. The Decree of the Hon'ble Court may be obtained on these points.

Law Secretary) 3 4/11/41

5) Hon'ble 4/11/41.

3 5/11/41

Asst Secretary) 6) 5/11/41

7) Sealed with a draft letter to the Registrar, High Court

5/11/41

8) Hon'ble Mr. Justice M. No. P. 1885 of 6-11-41 3 6/11

Sec'y

GOVT. LAW DEPT. 4 NOV. 1941. GOVT OF MYSORE

Serial No.

From

The Registrar High Court

Dr. Nos. 22 1942-43 Dr. 28.7.1944

Forwards copies of the Minutes of the Judges of the High Court in the matter of expeditious execution of decrees for partition.

(8) The Law Association Bangalore represented recently that suitable instructions may be issued to the Concerned authorities to see that decrees for partition are executed expeditiously. A copy of the letter of the Association was sent to the High Court for Opinion. In respect of other items contained in the representation, it is submitted that extracts have been sent to Legis Section for necessary action.

(9) In the present Communication, the Judges of the High Court have discussed the question fully and they are of opinion that the desired object can be satisfactorily achieved by amending Section 54 of the Civil procedure Code and by deleting Section 54-A of that Code. It has also been suggested that Rule 18 of Order XX of C.P.C may be recast on the lines suggested by the Chief Justice.

Pages 5, 6, 8, 13, 14 & 15 of Minutes of Judges

Page 5 of the Minute of the Chief Justice

NOTE—Cont. Sheet.

WD 04155—GPB—55,000—23-10-41

Partition of decrees

C/S File No. of 194 | General and Revenue Secretariat

Serial No.

SEP 4 1942
No 2098

2062

(1) Sections 122-125 of the Land Revenue Code embody the rules for partition of estates paying revenue to Govt. and (11) The High Court are of opinion that instead of entrusting the work of adjudicating relating to the partition of estates to the Executive Officers, it would be better if the Courts themselves take up this work. According to them this suggestion can be given effect to by means of amending Section 54 of the C.P.C and deleting Section 54-A of that Code which provides for orders

(12) The Additional Law Secretary, the Legislative Secretary, the Legislative Draftsman, the Chief Justice, the Law Secretary, may kindly see the proposed amendments

Law Secretary 3/9/42

(13) The Law on the point may be amended as suggested by the Chief Justice (P.S.)

Minister in charge of Law 3-9-42

Minister 3/9/42

(15) Agreed 4/9/42

Agreed 4/9

4-9-42

BEOY. LAW DEPT. 3 SEP 1942 GOVT OF MYSORE

Amendment of Civil Procedure 67 Sections 54 and 54 A

Serial No.

(16) This may be sent to the Legis Section for further action.

Law Secretary 3/9/42

SECY. LAW DEPT. 27 SEP 1942 GOVT. OF MYSORE

(17) 10-9-42

Bor Secy Legislation 3/9/42

BKR 10.9.42 SDN 11.9.42

(18) Please put up the file dealing with Act I of 1915. SDN

MR 2V

(19) The concerned file is put up herewith.

2V 17/9/42 BDN 17/9

662 R.L. Legis 27-13 (1-5) ("A" Collection)

(20) The Judges of the High Court have recommended the amendment of section 54 of the Code of Civil Procedure and the deletion of section 54-A. Section 54 provides for the partition of an undivided estate assessed to the payment of revenue to the Governmen or for the separate possession of a share of such a estate. The opinion of the High Court is that the operation of this Section which requires the partition to be effected by the Deputy Commissioner may be

NOTE—Cont. Sheet.

WD 04155—GPB—55,000—23-10-41

Serial No.

limited to non-ryotwari holdings. The Judges suggest that a proviso may be added to section 54 to the effect that it does not apply to ryotwari holdings, or words to that effect. The major type of tenure in Mysore is the ryotwari tenure, and non-ryotwari tenure is prevalent only to a very limited extent. In the circumstances, it would be perhaps better if the substantive section 54 is made applicable only to land which has been alienated (non-ryotwari tenure) instead of providing in the Section for both kinds of tenure and exempting therefrom the major type of tenure.

A draft Bill has accordingly been prepared of a revised Section to replace the existing section 54 and applicable only to non-ryotwari tenure.

From the minute of the Chief Justice, the reason for a provision in British India corresponding to section 54 of the Mysore Code appears to have been to provide for a division of a zamindari or similar large estate, and from paragraph 4 of his minute, it appears to follow that the application of section 54 to Inam villages alone instead of to all land which has been alienated would meet with his approval. If this suggestion is accepted, then in the proposed draft of section 54, instead of the words "land which has been alienated" "an alienated village" would appear to secure the object and limit the scope of

Code of Civil Procedure amendment Bill
S 54-54A

General and Revenue Secretariat R. A. & L. C. | File No. 185/R. of 194 | App. F. III-2

Serial No.

section 54 still further. Whether section 54 should be made applicable to all land which has been alienated or only to an alienated village is a point for orders.

(23) Section 54-A has also been proposed for deletion. The file which led to the passing of an enactment adding section 54-A to the Code of Civil Procedure in 1915 is put up for perusal.

(24) The amendment of Rule 18 of Order XX will doubtless be effected by the High Court after the Bill becomes law.

28.9.42

Secy
R. A. & L. C.

(25) I think that it would be simpler to number the present Sec. 54 as Sec. 54 (1) and add the following as Sub-Sec. (2) - "Nothing in this Section shall be deemed to apply to Inam holdings." I would therefore suggest that clause 2 of the proposed Bill be modified accordingly. If the above suggestion is approved, a separate draft Bill will be put up.

BKR
29.9.42

Law Secy

(26) Add it as a proviso as suggested by Mr. C. P. in Redraft.

25-9-42

BKR
30.9.42

30.9.42

SECY. LAW DEPT. 3602 1942 GOVT. OF MADRAS

NOTE—Contn. Sheet.

Code of Civil procedure (Amendment) Bill

File No. 185/RL. of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

1) As directed above, a revised draft Bill is submitted for approval

24/1-10-42 BDN 1/10.

Secy 30/1.10.42
AA + DE

BKR 1.10.42

Law Secy

3/10 Send to Registrar
Court for Judicial opinion
Secy
1-10-42

SECY. LAW DEPT. 3709 GOVT OF MYSORE

2) Forwarded with compliments to the Registrar, High Court, unofficially for favour of obtaining the opinion of the Judges of the High Court on the draft Bill.

G.O.No. 1/41-42

BKRamachandra Iyengar
for Secretary to Government,
Law Department.
2.10.42

REGISTRY OF MYSORE. C.. 1942

C-No 472
4243.

Dy Dis 159/4243

3) Returned with compliments. The Judges of the High Court are of opinion that the proposed Bill is appropriate except that the proviso to be added to Section 54, Code of Civil Procedure, should run "provided that nothing in this section shall apply to a decree for the partition of a ryotwari holding or ryotwari holdings or for the separate possession of a share in such a holding.

SECY. LAW DEPT. 4921 9 OCT 1942 GOVT OF MYSORE

OFFICE OF THE SECRETARY M.L.C. 1942 TO THE HON'BLE PRESIDENT AND MEMBERS OF THE LEGISLATIVE COUNCIL

High Court of Mysore, Bangalore, Dated 10 Nov 1942

N. Samaiengar
REGISTRAR. 10.11.42

10.11.42 BDN 10.11.42 BKR 10.11.42

The Code of Civil Procedure (Amendment) Bill

General and Revenue Secretariat
R. A. & L. C.

File No. of 194 [App. F. III–2

185 | R 2

Serial No.

(33) The draft Bill revised in the light of the opinion of the Judges of the High Court is submitted for consideration

DN. 13-11-42

13-11-42

34 The draft Bill for which the opinion of the Judges of the High Court and is submitted for approval.

13.11.42

Secy (Law)

35 BDKR 14-11-42

36 Law Secy

(37) The Right courts may be consulted by Mudivaat Rayaswari holding Rupees Cus 14-11-42

(38) After the Proviso to section 54 Proposed to be added by the draft Bill under Consideration, the following Sentence Could Perhaps be added in order to indicate what a Ryotwari holding Means

" Ryotwari holding means the holding by an occupant of an interest in unassessed land".

DN 5.1.43

Secy (Law)

(39) BDKR 5.1.43

Law Secy (40) Cus 5-1-43

BDKR 5-1-43

NOTE—Contn. Sheet

LEGISLATIVE DEPT. 5-1-42 GOVT OF MYSORE

LEGY. LAW DEPT. GOVT OF MYSORE

File No. 65/N of 194

General and Revenue Secretariat R. A. & L. C.

Serial No.

(41) Reference is invited to the law secretary's directions on the previous page. Before consulting the High Court on the definition, it is may perhaps be best to circulate this (Revised) to the officials on the Sub-Committee.

R3682

BKR 6.1.43

Secretary

Subject to orders.

The definition might be adopted. It may however be mentioned that this definition is for the purposes of Sec. 5(4) A.O.E.

Secretary 19/1

3917

After the word "Mining" and before means" the words "for the purposes of this section may be inserted

Hon'ble Finance Member, Hyderabad Law Secretary

19/1

BKR 19/1

19.1.43

This may be done & the High Court consulted

19-1-43

MV.N.

BKR 19-1-43

20.1.43

The Code of civil procedure (Amendment) Bill

Continuation Sheet. File No. / Current No. of Page.

185 | RL | 614/M.

Typed list of papers in the file is put up (Flag D)

(16) Forwarded with compliments to the Registrar, High Court, unofficially for favour of obtaining the opinion of of the Judges of the High Court on the draft Bill and on the draft definition of 'Ryotwari holding'. (Vide paras 37 to 45 supra)

BKR an. ahis Kmanga
for Secretary to Government,
Law Department.
21.1.43

C.O. No. 2 dated 22/1/43.

C ... / 42-43.
22. 1. 1943.

REGISTRAR HIGH CO
25 JAN 1943
OF MYSORE.

High Court of Mysore,
Bangalore,
Dated 19 April 1943.

By Dis 267 / 4 243

(17) Returned with compliments. The Judges of the High Court on consideration are of opinion that it will be better to avoid the use of the word 'ryotwari' which appears in no Mysore enactments, and they therefore suggest that the proviso be worded as follows:-

"Provided that nothing in this section shall apply to a decree for the partition of a holding or holdings of an occupant as defined in section 2 of the Mysore Land Revenue Code, 1888, or for the separate possession of a share "in such holding."

Narasimhachar
Deputy Registrar (doing duty as Registrar).

HR

Cus 20-4-43
BKR 20.4.43

(18) Please put up draft Bill as the above lines immediately.

Sony 20.4.43

A Bill further to amend the code of Civil procedure

Continuation Sheet. File No. / Current No. of Page.

185 RL √ 614 R1

50 As suggested in para 47 supra, a revd draft Bill is put up

20.4.43

BVN 20/4

51 A draft Statement of principles is put up for approval

24.4.43 Please put up Statement

BVN 24/4 & revised

26.4.43

52 A typed draft is put up herewith

27-4-43

BVN 27/4

Sl. Principles also Please 20.4.43

High Court of Mysore.
Bangalore.
Dated 19 April 1943.

Returned with compliments. The Judges of the High Court on consideration of opinion that it will be better to avoid the use of the word 'Pyotwari' which appears in no Mysore enactments and they therefore suggest that the proviso be worded as follows:-

"Provided that nothing in this section shall apply to a decree for the partition of a holding or holdings of an occupant as defined in section 2 of the Mysore Land Revenue Code, 1888, or for the separate possession of a share "in such holding."

Deputy Registrar (doing duty as Registrar).

Code of Civil Procedure (Amt) Bill (re Partition decrees) (Sections 54 & 54A)

Continuation Sheet. File No. Current No. 614/M of Page.

53) A draft Bill based on the latest opinion of the High Court and a set of Principles are put up for Consideration This is a Council Matter

Secy (RA-Lc) 27.4.43

BKR 27.4.43

Law Secy

1. MAY 1943 1259

27 APR 1943

54) May be approved & (disposed of by circulation)

Secy 27-4-43

OFFICE OF THE MINISTER FOR FINANCE & REVENUE 27 APR. 1943 No. 9156

Member Law & Revenue

55) KU 29.4 BKR 27.4.43

56) KM 2/5/43

Secy 3.5.43

10290.

Chief Secy

57) KM

3. MAY 1943

BKR 3.5.43

Submitted with a circulation Memo. Rm 3/5/43. KM 3/5/43

58) passed by R.A on 2-6-43

Secy 2.6.43

BKR 2.6.43

Mr D.V.

For Disposal by Circulation.

No. C. 1053

.....Q....1942-43

GENERAL AND REVENUE SECRETARIAT

Council Matter

Subject.

The Code of Civil Procedure (Amendment) Bill.

Circulated to the Council of Ministers.

By Order,

3rd May 1943.

V. Jeyaratnam
Chief Secretary to Government.
3/5/43

Minister for Revenue and Law. (Seen)

Minister for Public Works. 4.5.

9197/4/5. **Minister for Local Self-Government and Public Health.** 4.5.43.

6212/5.5.43. **Minister for Industries and Commerce.** 6/5

436/5/5 **Minister for Education.** 5/5

Law Sec copies

WD 02720—GPB—500—24-4-43

MW 7/5/43

Please put up D.P.W. immediately
7.5.43

CWS 7-5-43

The Code of Civil procedure (Second Amend
Bill

Continuation Sheet. File No. / Current No. 614/2 of Page.

11. MAY 1943 8479
GOVT. OF MYSORE
8/5/43

OFFICE OF THE MINISTER FOR FINANCE & REVENUE
- 8 MAY 1943
No 9478

Signed final note in duplicate placed in the file.
I.M.
11.5.43

A.D.J.N. is submitted for consideration
24/7-5-43
BVN 7/5

A.D.J.N. is submitted for consideration
Law Secy.)
BVN 7-5-43

A.D.J.N. submitted
Cus 6-5-43
BVN 8-5-43

Minister Law

KVA 10/5

Dewan

Cus 11-5-43

BXR 11-5-43

Law

Final Note by the Minister for ~~Finance~~ and Revenue

Subject.–

The Code of Civil Procedure (Second Amendment) Bill.

Sections 54 and 54A of the Code of Civil Procedure provide that decrees for partition of estates assessed to the payment of land revenue or for the partition of buildings situate within the limits of a Municipality should be made by Revenue Officers or by the President of the Municipal Council, as the case may be. The Bangalore Law Association represented to the Government sometime ago that there was inordinate delay in effecting partitions and that instructions should be issued for expeditious disposal. The High Court which was consulted in the matter, has recommended that Section 54 may be limited to non-ryotwari estates, the partition of which may be convenient for Revenue Officers to effect, and that Section 54A may be deleted. It is proposed to amend the Code of Civil Procedure by adding a proviso to Section 54 which will limit the scope of this Section to non-ryotwari estates and by deleting Section 54A and to place the Bill drafted for this purpose before the ensuing Representative Assembly in June and to introduce it thereafter in the Legislative Council.

The Dewan and other Ministers are agreeable to these proposals. I solicit the gracious sanction of His Highness to the proposals.

Bangalore,
11th May 1943.

N. Ananthasayanam

MINISTER FOR REVENUE AND LAW

Submitted to His Highness.

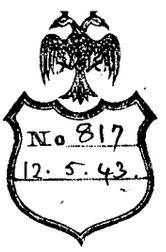
I submit herewith for His Highness's gracious approval a final Note by the Minister for Revenue and Law on the subject of the Bill to amend Section 54 and delete Section 54 A of the Code of Civil Procedure, 1911.

N Madhava Rau

Bangalore,
11th May 1943

D e w a n.

Record of Cases submitted for the Orders of His Highness the Maharaja.

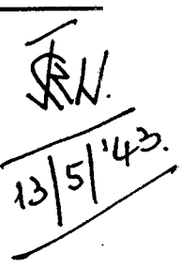


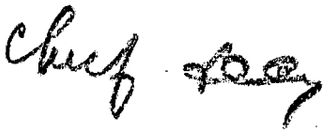
Subject.

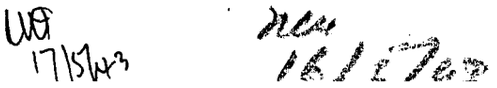
Bill to amend Section 54 and delete Section 54 A of the Code of Civil Procedure, 1911

No. 818

Order.







Revenue

Secretariat.

C 1053.

SUBJECT :—

Bill to amend Section 54 and delete Section 54 A of the Code of Civil Procedure 1911.

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules of the Mysore Government Business Rules.) (*)

Offg. Chief Secretary to Government.
17/5/43

Through the Secretary to Government,

...Law.....Department

17-5-43

9769
17.5.43

Minister for Revenue and Law. 17.5.43

6663
18/5

Minister for Public Works. 18.5

Minister for Local Self-Govt. and Public Health. 21.5.43

510
24.5.43

Minister for Industries and Commerce and Supplies. 24/5

940
25/5/43.

Minister for Education. 26/5

SECY. LAW DEPT. 26/5 GOVT OF MYSORE

NOTE.—Contn. sheet

WD 02718—GPB—500—21-4-43

Law Secy 26/5/43

27.5.43 BKR 29.5.43 · 28.5.43

The Code of Civil procedure (Second Amendment) Bill.

Continuation Sheet. File No. / Current No. 614/M of Page.

(59) The principles of the Bill were approved by the House on 2-6-43

The Bill will be published if approved under rule 36 of the Mysore Legislative Rules.

The Statement of principles will be adopted as the Statement of objects & Reasons.

For orders.

21/3/6/43 Permission of the Dewan is solicited BVN 3/6. for Publication under rule 36, the St. of Principles being adopted as the St. of Objects & Reasons.

Secy (Law) RA.Le 3.6.43

BVR 3643

Law Secy) May be published

Dewan KVA SVB 3-6-43

BVR 4.6.43

Cys 7-6-43

To The Compiler Mysore Gazette.

No RL 1103 dated 7th June 1943.

Directs publication of the Bill and the St. of Objects and Reasons in the Gazette.

Orders of the Dewan have been obtained to include the following motions in respect

OFFICE 4. JUN. 1943 8885

SECY. LAW DEPT. 14417 2/6/43 GOVT OF MYSORE

The Code of Civil procedure (Second Amendment) Bill

Continuation Sheet. File No. / Current No. 614/W of Page.

of the Legislative business to be transacted at the ensuing Budget Session of the Le, in the name of the Minister for Law

(1) The Minister for Law to introduce the Code of Civil procedure (Second Amendment) Bill

(2) Also to move that the Bill be taken into consideration by the Council

(3) Also to move that the Bill be passed

W. 916/43 BVN 9/6 Supt.

The Bill was introduced in the Legislative council on 5th July 1943 and was passed by the House

A copy of the Bill as passed by the council and signed by the president, Legislative council, is put up herewith

A.D.J.N. is submitted for approval

W 14-7-43 BVN 14/7

1 DJN is submitted for approval

Secy TA. Le) BVN 15.7.43

BVR 15.7.43

Law Secy)

Edward Reed

15-7-43

Minister for Law

BVR 15.7.43

Signed J. N. in duplicate put up, Full

16. BVN 15.7 BVN 16.7

Mr 2 K.

WD 01809—GPB—60,000—26-1-43

65 17/7/43.

SECY. LAW DEPT. 65 GOVT OF MYSORE

OFFICE OF THE MINISTER FOR REVENUE & I. & 15 JULY 1943 No. 442.

Final Note by the Minister for Revenue and Law.

Subject.— Promulgation of the Code of Civil Procedure (Second Amendment) Bill.

The gracious approval of His Highness was accorded on the 13th of May 1943 to the proposal to place the Code of ivil Procedure (Second Amendment) Bill before the Repre-entative Assembly and the Legislative Council.

The Bill was placed before the Representative Assembly during its recent Budget Session and approved by that House. The Bill was thereafter introduced in the Legislative Council during its recent session and passed by it.

A copy of the Bill as passed in the Council and signed by the President under Standing Order 44 of the Mysore Legislative Council Standing Orders is submitted herewith.

The gracious sanction of His Highness is solicited to promulgate the Bill into law.

Bangalore,
16th July 1943.

Minister,
Revenue and Law.

Submitted to His Highness.

I submit herewith a Final Note by the Minister for Revenue and Law on the subject of the promulgation into law of the Code of Civil Procedure (Second Amendment) Bill, for His Highness's gracious sanction.

M. Visvesvaraya

Bangalore,
19th July 1943.

D E W A N.

General and Revenue

Secretariat.

117

SUBJECT:—

Proposal to promulgate into law the Code of Civil Procedure (Second Amendment) Bill.

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules of the Mysore Government Business Rules.) (*)

Vrdaiyanathan
Chief Secretary to Government.
30/7/43

Through the Secretary to Government,

.....Law.....Department.

30-7-43

764
9/8/43

Minister for Revenue and Law. KVA 8/8

842
30/7

Minister for Public Works. JMD 29.7.

876
31/7

Minister for Local Self-Govt. and Public Health. 31.7.43

667
6.8.43

Minister for Industries and Commerce. Supplies. MVD 5/8

727
6-8-43

Minister for Education. 6/8

Law Secy

WD 02718—GPB—500—21-4-43

OFFICE OF THE SECRETARY
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL
M.V.J.
9 AUG. 1943

NOTE.—Contn. sheet

WD 9/8/43

9-8-43

The Code of Civil procedure (Second Amendment) Act 1943

Continuation Sheet. File No. 614/44 of 1667/643 Page.
Current No.

The gracious assent of His Highness the Maharaja was accorded on 28th July 1943 to promulgate the Bill into law

A draft G.O directing the publication of the Act as Act No XL of 1943 is submitted for approval

DW 11/8/43 (Secy RA-Lo)

BVNS 11/8

BSS 11.8.43

BKR 11.8.43 (Law Secy)

Ans 11-8-43

DSRao

BKR 12-8-43

To
The Comptroller, Mysore Gazette
No RL 191 Legis 15-43-1 dated 16th Aug 1943
Directs the publication in the Gazette of the Act as Act No XL of 1943
The Act has been published in part IV of the Gazette dated 19th Aug 1943

If approved, the file will be sent to protection Branch for note and return

DW 28/8/43

JAS 28/8

Now that S 54 has been amended the amendment of O XX r 18 will have to be considered by the High Court.

The file may be sent to addl Secy for taking action if necessary and for returning the file for being treated here.

BSS 28-8-43

BKR

WD 06260—GPB—500 pads of 100 sheets each—20-3-42

Secy 30/8 (RA-Lo) Asst Secy (Law)

for C.B.A.

Appendix F G—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *193*

Date of issue 6.11.41.

Signed by Dy. S.P.P.

Please type the two lines

~~Receipt~~ 1) & 2)

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Serial No.

No. P/1885/Enc. 1

To

The Registrar. High Court

Sir,

In forwarding herewith an extract from the letter dy 29-10-41 received from the President, Law Association, Dt. office Buildings, Bangalore City, containing two representations re: the expediency executing of decrees for partition, I am directed to ~~to request~~ request you to kindly obtain the opinion of the ~~Judges~~ High Court in the matter and forward the same ~~as soon as~~ at your earliest for further action.

I have etc

for Secretary to Govt

Law Dept

WD 0563—GPB—30,000—6-1-39

6th November 1941.

No. P 1885/Ch
Secl.

The Registrar,

High Court of Mysore.

In forwarding herewith an extract from the letter dated 29th October 1941 received from the President, Law Association District Office buildings, Bangalore City, containing two representations regarding the expeditious execution of decrees for partition, I am directed to request you to kindly obtain the opinion of the High Court in the matter and to forward the same to Government for further action.

I have the honour to be,

Sir,

Your most obedient servant,

For Secretary to Government.
Law Department.

TN-2)

240 GL 767 84/

R. O. C. No. 568 41-42
~~D. Dis.~~

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,
Bangalore, 21st Novr. 1941.

FROM

T. SHAMIENGAR ESQ., B.A, B.L.,
Registrar, High Court of Mysore.

SECY. LAW DEPT. 24 NOV. 1941 GOVT OF MYSORE

To

V. NARAYANA RAO, Esq., B.A., LL.B.,
Secretary to the Government of Mysore,
Law Department, BANGALORE.

SIR,

With reference to your letter No.P.1885/Cts. dated 6th November 1941, forwarding for opinion of the High Court two representations of the Bangalore Law Association regarding expeditious execution of decrees for partition, I am directed to state that information on the subject is being collected and that a reply will be sent later.

I have the honour to be,

Sir,

Your most obedient servant,

T. Shamiengar
REGISTRAR.

Orders for perusal. The promised report will be awaited

Await report

MSN

~~R. O. C. No.~~ 22/42
D. Dis./ 43

679.
P

Enclosure

HIGH COURT OF MYSORE,

Bangalore, 28 July 1942.

FROM

N. SAMAIENGAR, Esq., B.A., LL.B.,
~~T. SHAMIENGAR, Esq., B.A., B.L.,~~
Registrar, High Court of Mysore,
BANGALORE.

SECRETARIAT CONSTRUCTION BRANCH
29 JUL 1942
REV. SECRETARIAT

To

C. NARAYANASWAMI NAIDU, Esq., B.A., B.L.,
Secretary to Government,
Law Department,
BANGALORE.

SECY. LAW DEPT.
28 JULY 1942
GOVT. OF MYSORE

SIR,

In reply to your letter No. P.1885/Cts, dated 6 November 1941, forwarding for opinion an extract from a letter received from the President of the Bangalore Law Association regarding expeditious execution of decrees for partition, I am directed to enclose copies of the minutes of the Judges of the High Court on the subject.

I have the honour to be,

Sir,

Your most obedient servant,

N. Samaiengar

REGISTRAR.

BK.
MSN.

THE MINUTES OF THE JUDGES.

THE CHIEF JUSTICE:-

I have long regarded the Mysore procedure in partition suits as unsatisfactory, and I am glad that the Bangalore Law Association has raised this question. But it is not because it is dilatory that I dislike our present procedure. I do not think it is proper that parties, who come to the Courts for civil relief, should be referred—except when there is some very strong reason for it—to executive officers for an important part of that relief. The final determination how a partition of property is to be carried out, if it is to be done conveniently, fairly and happily for the parties concerned, often involves adjustments and the decision of details, in regard to which the parties are entitled to make their representations to the Court to which the suit has been brought. It is, I think, a mistake to regard the final determination of a partition as a rule-of-thumb matter, which can safely be left to an executive officer to carry out. And our present system leads to immovable and movable property being dealt with in water-tight compartments, which is often not the most convenient or fair way of partition. No doubt, when a zamindari or similar large estate has to be divided and the land revenue on it has to be apportioned, it is convenient that the partition should be made by a Revenue Officer; and that is the justification of sec. 54 of the C.C.P. of British India, which has been copied in the Code of Mysore, where the

justification very seldom occurs. In Madras it was decided long ago that a ryotwari field is not an "estate" within the meaning of that section— and I do not think it is merely a predeliction for what I have been accustomed to in Madras which makes me regard that as a decision in accordance with commonsense. Perhaps it was through a misapprehension that Deputy Commissioners were dragged into partitions of ryotwari land in Mysore. But, however our procedure arose, I think it is dilatory and unsatisfactory and requires reconsideration.

4) What appears to me to be the proper and normal procedure in a partition suit is that the trial Court should first decide who are the parties entitled to partition and in what shares, what is the property available for partition and subject to what charges and all other questions between the parties proper for decision at that stage and should then make its preliminary declaratory decree after that, with the help of a commissioner, if necessary, questions of accounting, if any, should be decided and a scheme of partition should be drawn up or approved by the Judge after hearing all representations of the parties and making all necessary and fair adjustments: and as the result of all that the Judge should make a final and executable decree. If there is ryotwari land to be divided, the Judge can do all that with efficiency, fairness and, I hope, reasonable promptness without the Deputy Commissioner being called in at all. It need not be thought that

his aid may be needed because there may be survey fields to be divided. Whoever has to determine a partition should make it one of his objects to prevent the parties, so far as is possible, from splitting up survey fields both in their own interest and in the public interest. Arrangements by which out of six fields six sharers each take one instead of one-sixth of each field and other reasonable adjustments are certainly not less likely to be reached when the parties appear to discuss them before the Judge with the help of their Counsel than when the division has to be made by an executive officer. The making of final partition decrees, which are executable, in respect of ryotwari land is done every day without complaint by Courts in the Madras Presidency; and I see no reason to suppose that our Courts could not do it equally well. Sometimes the sub-division of a field or fields in such a case is inevitable; but that need not prevent the final decree being made by the Court and being executed through the Court. Changes in revenue registry and revenue maps in consequence of partition decrees can be made quite well later on without revenue officers having any hand in making the partition.

3) Nor is there any necessity, so far as I can see, for partition of buildings within the limits of a Municipality being made by the President of the Municipal Council, as provided in section 54A of our Code. Some houses can be divided without inconvenience; but in a great many instances that should be avoided by use of the Partition Act or otherwise. And, when a house has to be divided,

the convenient course is for a commissioner to draw up a scheme or alternative schemes for the Court to consider. If there has been any idea that the President of the Municipal Council should have a hand in this because there are building and other rules to be observed in cutting up a house, that is no real justification for our present system, with which in this matter also the Law Association finds fault. It is quite easy to make it the duty of any commissioner appointed to prepare a scheme for the division of a house in Municipal limits to ascertain from the Municipal authorities that his scheme is in accordance with their regulations before he submits it to the Court.

4) In my opinion it is better that a final and executable decree should be made by the Court in every successful suit for partition except when large revenue-paying estates, of which we have few ~~have~~ instances in Mysore, or perhaps inam villages are concerned. With those exceptions I think we should do well to follow the procedure of the Madras Presidency and to require the Courts themselves to make preliminary and final decrees in partition suits. From my experience I think that system works well and more promptly than the mixture of judicial and executive activities which has given rise to the present complaints. And incidentally, if we followed strictly the normal procedure of the Court making both preliminary and final decrees, we should get rid of the fuzziness about procedure in such suits, which prevails in some of our Courts and has led in

some instances to repeated partial decrees being made at different stages of a suit, causing a great deal of trouble afterwards. Partition suits ~~from~~ form a considerable part of the work of our Courts, and it is certainly desirable that they should be dealt with in the most businesslike way.

5) My learned brothers may see some special reasons, which do not occur to me, for perpetuating the peculiar ways of Mysore in this matter. But, if they do not, I propose that we consider how the law can be amended and take this opportunity of making our suggestions to the Government.

6) First I suggest that a proviso should be added to sec. 54, C.C.P., that it does not apply to ryotwari holdings or words to that effect.

7) Secondly I suggest that sec. 54A, C.C.P., should be repealed.

8) Thirdly I suggest that Rule 18 of Order XX, C.C.P., be recast so as to make it clear that the normal procedure is to be by way of preliminar and final decrees, both to be made by the Court.

9) It may be observed that Rule 18 of Order XX, as it stands, is in conflict with sec. 54A. Wher that section was introduced into the Code, it appears that the need to amend the Rule was overlooked.

ADL-UL-MULK MR.JUSTICE C.ABDUL GHANI:

There is no doubt that the present procedure in suits for partition has led to a lot of in-

convenience and delay. Whatever the reasons for the procedure prescribed, — whether they be to see that the minimum area prescribed for a survey number is maintained or a division of a house in a Municipal area is likely to affect sanitary and other arrangements, the delay in effecting partitions in spite of repeated complaints continues and Courts ~~are~~ and parties are powerless, as the agency to effect partitions is not amenable to the control of Courts. I agree with the views of the Chief Justice and with his proposals to get rid of the trouble as far as possible. The action proposed is better than that suggested by the Law Association, as in practice such instructions appear to have been issued before without appreciable benefit to the parties. The routine practice in such cases necessarily leads to long ~~dealys~~ delays and inconvenience. It is better to take the matter out of their hands as far as possible.

RAJADHARMAPRASAKTA MR.JUSTICE A.R.NAGESVARA IYER:

1) I entirely agree with the Chief Justice. My own view for a long time has been that ryotwari lands, and houses within Municipalities could be partitioned more satisfactorily by the Civil Courts through Commissioners carefully selected. Execution of partition decrees by the Deputy Commissioners or Commissioners of Municipalities, as the case may be, while being dilatory, has been unsatisfactory from the point of view of the parties.

2) Steps may be taken to amend the law on the

subject as suggested by the Chief Justice.

RAJADHARMAPRASAKTA MR.JUSTICE T.SINGARAVELU MUDALIAR:

1) So far as section 54 of the Code of Civil Procedure is concerned there is a decision of our High Court in 15 Mys.C.C.R.139 in which doubt was expressed whether section 265, Code of Civil Procedure, of the old Code corresponding to section 54 applied to ryotwari lands and the view of the Madras High Court to the effect that it does not — viz. in 6 Mad.97 and 7 Mad.382 (F.B.)— was stated with approval. The case reported in 1 Mys.C.C.R.127 was a case of partition of a village which was considered to be an estate paying revenue to Government. 2 Mys.C.C.R.101 and 108 were cases of partition of Coffee Estates. It is not clear what the Estate was in the case reported in 16 Mys.C.C.R.32. The view ~~of~~ in this Court is therefore that section 54, Code of Civil Procedure, does not apply to ryotwari land.

2) Moreover under section 54, Code of Civil Procedure, the Deputy Commissioner has to ~~decide~~ divide the Estate in accordance with the law relating to the partition of such estates. That law is contained in the Land Revenue Code. Therein "Estate" is defined as meaning any interest in land and the aggregate of such interests vested in a person or persons capable of holding the same. Then sections 122 to 125 of that Code contain the rules for making partitions of

Estates paying land revenue to Government. It is significant that section 122 refers to Estates and not lands paying revenue to Government. As pointed out in 15 Mys.C.C.R.139 section 265 of the old Code would apply only when a division of the land revenue is also sought. That is to say section 122 of the Land Revenue Code applies when there is a division of Estate, i.e. interest and not the division of land in which a person has interest. It appears to me therefore that section 54, Code of Civil Procedure, does not apply to ryotwari lands at all and it is by a wrong interpretation of that section that the Courts have applied it to ryotwari lands. If this view is made clear by an early pronouncement of this Court, amendment of section 54 may not be necessary. But if it is thought necessary to amend the Code, I agree with the Chief Justice in his view.

I entirely agree with the Chief Justice with regard to the deletion of section 54A. Needless delay in effecting partitions is caused by the procedure laid down in that section.

MR.JUSTICE S.VENKATA RANGA IYENGAR:

So early as in 1889, the scope and applicability of Section 265 of the old Code of Civil Procedure, corresponding to Section 54 of the present Code, came up for consideration by this Court in 12 Mysore Law Reports 301. In that case Plumer C.J. and Thumboo Chetty J., before whom it was urged that Section 265 of the old Code did not apply to property held on ryotwari

tenure but applied only to permanently settled estates as was held in I.L.R.6 Madras 97 and 7 Madras 382, observed as follows:- "With much deference, it seems to us that the phraseology of the said section is wide enough to include all estates of property in land paying revenue to Government; and that in the absence of any special allusion only to permanently settled estates, the applicability of the provisions of the section cannot be confined only to a particular class of estates. Whatever may be the practice or usage obtaining in the Madras Presidency, we find that in Mysore special provision has been made for the partition of all lands paying revenue to the Government. Prior to the enactment of the Mysore Land Revenue Code (Regulation IV of 1888) there were the Bombay Survey Acts I of 1865 and IV of 1868 applicable to Mysore and Section 17, Clause 1 of the latter Act contained rules for giving effect to decrees of civil Courts for partition of lands paying revenue to Government and for sub-division of survey numbers held on ryotwari tenure. The same rules with slight modification, have been embodied in Section 122 of Regulation IV of 1888. The partition of lands paying revenue to Government involves the proper apportionment of the assessment payable to Government by each sharer and this can only be done by the Collector of Revenue under rules framed by the Government. Therefore, the Legislature has provided for partition of all lands paying revenue to Government decreed by civil Courts being carried out by or

through the Collector. The decision in I.L.R.11 Bombay 662 is in favour of the view we have now taken". That decision receives support from the definition of the word "estate" in Section 3 of the Mysore Land Revenue Code. According to the definition given there, "estate" means any interest in land and the aggregate of such interests vested in a person or aggregate of persons capable of holding the same. In view of that definition, it cannot be reasonably interpreted that the word "estate" used in Section 54 of the Code of Civil Procedure should be restricted only to estates held on zamindari tenure and cannot include lands held on ryotwari tenure. There does not seem to be any later case in Mysore overruling the decision in 12 Mysore Law Reports 301. In 1 Mysore Chief Court Reports 127 it was held that a civil Court had no control over the Collector's proceedings in effecting partition under Section 265 of the Code of Civil Procedure, though any illegality in the proceedings can be objected to before a final decree was passed. That case related to a decree for partition of 1/4 share of a certain village which was an estate paying revenue to Government. 2 Mys.Ch.C.R.101 related to a decree directing the partition of certain coffee estate and revenue paying lands between the parties and the decree was sent to the Deputy Commissioner under Section 265 of the Code of Civil Procedure for effecting the partition. Similarly in 2 Mys.C.C.R.108 also there was a decree for partition of certain coffee estates. Merely because those coffee lands were called

has also referred to the observations of the learned Judges in 12 Mys.L.R.301. That Section 54 of the Code of Civil Procedure, as it now stands, is applicable even to lands held on ryotwari tenure can also be gathered from the decision in 39 Mys.H.C.R.1171, which related to a decree for the partition of only one survey number by metes and bounds into two equal shares and the delivery of one of such shares by the defendants to the plaintiffs. In that case it was observed as follows by the learned Judges:- "Section 54 and Order XX, Rule 18, of the Code of Civil Procedure make it quite clear that a partition of such an estate or the separation of a share therefrom shall be made only by the Deputy Commissioner and there is also abundant judicial opinion in support of this view". The learned Judges in that case overruled the contention urged before them that, as no separate allotment for revenue was asked for in the case, there was no need for the Court to send the decree to the Deputy Commissioner for partition. Having regard to the case-law in Mysore and referred to above, it cannot be said that Section 54 of the Code of Civil Procedure, as it now stands, is not applicable to ryotwari holdings.

7) It is no doubt true that the present procedure, according to the provisions of Section 54 and Rule 18 of Order XX of the Code of Civil Procedure, has led to considerable delay in effecting partition of lands assessed to the payment of land revenue to Government. inasmuch

as the revenue officers who should effect partition according to those provisions are not under the control of the Courts and take their own time to effect partion and send their reports to the Courts, with the result that, after the preliminary decree is passed, cases have to be kept on as pending on the files of several Courts. On account of the delay in effecting partition, parties are also put to a lot of inconvenience and trouble. The representations made to the Government in this connection by the Law Association, Bangalore, are very reasonable and well-founded. There are only two ways of getting over the difficulty, viz. (1) by fixing a time limit within which the Revenue authorities may be required to effect partition; OR (2) by amending Section 54 and also Rule 18 of Order XX of the Code of Civil Procedure in the manner suggested by the Chief Justice. Of the two alternatives, the second appears to be more preferable, inasmuch as the Deputy Commissioners may say that each case depends upon its own facts and it would not be possible for the Revenue officers in every case to complete the partition proceedings within the prescribed time limit, if any such limit be prescribed, and they put forward as a pretext that the Revenue officers have several other duties connected with their own Department to perform. I very respectfully agree with the reasons given by the Chief Justice in support of his proposal that we may take this opportunity of making our suggestions to the Government to amend the law on the point. I agtee with the Chief Justice

that we may suggest to the Government for the amendment of Section 54 of the Code of Civil Procedure by adding a proviso to it that it does not apply to ryotwari holdings. Rule 18 of Order XX of the Code of Civil Procedure may also be recast as suggested by the Chief Justice.

3/ I also agree that Section 54-A of the Code of Civil Procedure should be repealed.

MR.JUSTICE C.SUBRAHMANYA AIYAR:

Section 54, Code of Civil Procedure, as interpreted here and Section 54-A do cause great delay in the execution of partition decrees. Since the partition of lands and houses has to be done by an outside agency, movables and immovables have to be partitioned separately, and there is no proper scope for the Court to make adjustments in the division of immovables from movables. As pointed out by the Chief Justice, the Court is in a better position and is the proper agency to make a final partition of all properties after taking into consideration all circumstances and making suitable adjustments.

Section 54-A seems to indicate that the President of the Municipality has to execute the decree and has judicial powers. It does not fit in well with the procedure under the Code of Civil Procedure for execution of decrees. Complicated questions sometimes arise whether the Court passing the decree should transfer it to the President for execution, whether an application is necessary for the purpose, what is the period of limitation

etc. Further Order XX Rule 18(2) is inconsistent with Section 54-A.

3 The reason for Section 54 may have been to prevent the fragmentation of lands and to see that the prescribed minimum extent of a survey number or its sub division under Section 109, Land Revenue Code, is maintained and to make a proper apportionment of the revenue on each share But, I think, the practical importance of this has been considerably reduced after the passing of the Record of Rights Act (1928). Under Section 9 of that Act "notwithstanding the provisions of Section 109 of the Land Revenue Code, survey numbers may from time to time and at any time be divided into as many sub-divisions as may be required in view of the acquisition of rights in land or for any other cause" Such a provisionx has been introduced in 1928 as an exception under Section 109 of the Land Revenue Code also. Consequently there appears to be no harm in a Court dividing the land. Such a division will be given effect to in the Record of Rights.

4) In view of the decisions of our High Court and the current practice, an amendment to Section 54 will be necessary to limit it to non-ryotwari holdings I agree with the Chief Justice that we may suggest to Government to amend Section 54 by adding a proviso that it does not apply to ryotwari lands and to delete Sec.54-A.

Copies of the minutes sent.

N. Samasivam REGISTRAR

28.7.42

THE CODE OF CIVIL PROCEDURE (Amendment) BILL.

Whereas it is expedient further to amend the Code of Civil Procedure, 1911 for the purpose hereinafter following;

It is hereby enacted as follows:--

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 194

(2) It shall come into force at once.

2. For section 54 of the Code of Civil Procedure, 1911 (hereinafter referred to as the said Code) the following section shall be substituted, namely:--

"54. Where the decree is for the partition of land which has been alienated or for the separate possession of a share of such land, the partition of the land or the separation of the share shall be made by the Deputy Commissioner or any Revenue officer not below the rank of a Deputy Amildar deputed by him in this behalf, in accordance with the law (if any) for the time being in force relating to the partition or the separate possession of shares of such estates."

3. Section 54 A of the said Code shall be deleted.

Cp/

D r a ft.

THE CODE OF CIVIL PROCEDURE (Amendment) BILL.

Whereas it is expedient further to amend the Code of Civil Procedure, 1911 for the purpose hereinafter following;

It is hereby enacted as follows:--

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 194...

(2) It shall come into force at once.

Amendment of section 54, Act III of 1911.

2. To section 54 of the Code of Civil Procedure, 1911 (hereinafter referred to as the said Code), the following proviso shall be added, namely:--

"Provided that nothing in this section shall apply to the partition of a ryotwari holding, or for the separate possession of a share in such a holding."

Omission of Section 54 A, Act III of 1911.

3. Section 54 A of the said Code shall be deleted.

"provided that nothing in this section shall apply to a decree for the partition of a ryotwari holding or ryotwari holdings or for the separate possession of a share in such holding"

Cp/

D r a f t.

THE CODEOF CIVIL PROCEDURE (Amendment) BILL.

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purpose hereinafter following;

It is hereby enacted as follows:--

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 194 ..

(2) It shall come into force at once.

Amendment of section 54, Act III of 1911.

2. To section 54 of the Code of Civil Procedure, 1911 (hereinafter referred to as the said Code), the following proviso shall be added, namely:--

"Provided that nothing in this section shall apply to a decree for the partition of a ryotwari holding or ryotwari holdings or for the separate possession of a share in such holding."

Omission of Section 54 A, Act III of 1911.

3. Section 54 A of the said Code shall be deleted.

Cp/

(Second Amendment)

THE CODE OF CIVIL PROCEDURE (~~Amendment~~) BILL.

Statement of Principles.

Sections 54 and 54A of the Code of Civil Procedure provide that decrees for partition of estates assessed to the payment of land revenue, or for the partition of buildings situate within the limits of a municipality, should be made by revenue officers or by the President of the municipal council, as the case may be. The Bangalore Law Association represented to the Government sometime ago that there is inordinate delay in effecting ~~the~~ partitions and that instructions should be issued for expeditious disposal. The High Court which was consulted in the matter has recommended that section 54 may be limited to non-ryotwari estates, the partition of which it may be convenient for revenue officers to effect and that section 54A should be deleted. Government ~~agree with~~ Accept this recommendation and the present Bill is brought forward to effect this purpose.

(Second Amendment)

THE CODE OF CIVIL PROCEDURE (~~Amendment~~) BILL.

Whereas it is expedient further to amend the Code of Civil Procedure, 1911, for the purpose hereinafter following;

It is hereby enacted as follows:-

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 194

(2) It shall come into force at once.

Amendment of section 54, Act III of 1911.

2. To section 54 of the Code of Civil Procedure, 1911 (hereinafter referred to as the said Code), the following proviso shall be added, namely:--

"Provided that nothing in this section shall apply to a decree for the partition of a holding or holdings of an occupant as defined in section 2 of the Mysore Land Revenue Code, 1888, or for the separate possession of a share in such holding".

Omission of section 54 A, Act III of 1911.

3. Section 54 A of the said Code shall be deleted.

14. THE CODE OF CIVIL PROCEDURE (SECOND AMENDMENT) BILL.

Statement of Principles.

Sections 54 and 54A of the Code of Civil Procedure provide that decrees for partition of estates assessed to the payment of land revenue, or for the partition of buildings situate within the limits of a Municipality, should be made by revenue officers or by the President of the Municipal Council, as the case may be. The Bangalore Law Association represented to the Government some time ago that there was inordinate delay in effecting partitions and that instructions should be issued for expeditious disposal. The High Court which was consulted in the matter has recommended that Section 54 may be limited to non-raiyatwari estates, the partition of which it may be convenient for revenue officers to effect and that Section 54A should be deleted. Government accept this recommendation and the present Bill is brought forward to effect this purpose.

THE CODE OF CIVIL PROCEDURE (SECOND AMENDMENT) BILL.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1911, for the purpose hereinafter following;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Code of Civil Procedure (Second Amendment) Act, 194 .

(2) It shall come into force at once.

Amendment of Section 54, Act III of 1911.

2. To Section 54 of the Code of Civil Procedure, 1911 (hereinafter referred to as the said Code), the following proviso shall be added, namely:

" Provided that nothing in this section shall apply to a decree for the partition of a holding or holdings of an occupant as defined in Section 2 of the Mysore Land Revenue Code, 1888, or for the separate possession of a share in such holding ".

Ryotwari holding

Omission Section 54A, Act III of 1911.

3. Section 54A of the said Code shall be deleted.

PC 2nd amt

14. ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನ (ಎರಡನೆಯ ತಿದ್ದುಪಡಿ) ಮಸೂದಾ ಕಾನೂನಿನ ನಿಯಮಗಳ ವಿವರ.

ಸರ್ಕಾರಕ್ಕೆ ಸಲ್ಲಬೇಕಾದ ಜಮಿಾನು ಕಂದಾಯವು ಠರಾವಾಗಿರತಕ್ಕ ಭೂಸ್ಥಿತಿಗಳ (ಎಸ್ಟೇಟುಗಳ) ವಿಭಾಗಕ್ಕೋಸ್ಕರ "ಡಿಕ್ರಿ"ಗಳು ಹುಟ್ಟಿದ್ದರೆ ಅಂಥಾ ಭೂಸ್ಥಿತಿಗಳನ್ನು (ಎಸ್ಟೇಟುಗಳನ್ನು) ರೆವೆನ್ಯೂ ಆಫೀಸರುಗಳು, ವಿಭಾಗ ಮಾಡಿಕೊಡುವಂತೆ ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನ 54ನೆಯ ಪ್ರಕರಣದಲ್ಲಿಯೂ, ಒಂದು ಮುನಿಸಿಪಾಲಿಟಿಯ ಸರಹದ್ದಿನೊಳಗಿರತಕ್ಕ ಕಟ್ಟಡಗಳ ವಿಭಾಗಕ್ಕೋಸ್ಕರ "ಡಿಕ್ರಿ"ಗಳು ಹುಟ್ಟಿದ್ದರೆ ಅಂಥಾ ಕಟ್ಟಡಗಳನ್ನು ಸಂಬಂಧಪಟ್ಟ ಮುನಿಸಿಪಲ್ ಸಭೆಯ ಪ್ರೆಸಿಡೆಂಟರು ವಿಭಾಗ ಮಾಡಿಕೊಡುವಂತೆ 54A ಪ್ರಕರಣದಲ್ಲಿಯೂ ವಿಧಾಯಕವಾಗಿದೆ. ಈ ರೀತಿ ವಿಭಾಗಗಳನ್ನು ಮಾಡಿಕೊಡಬೇಕಾದರೆ ಬಹಳ ಕಾಲ ವಿಳಂಬವಾಗುತ್ತಿದೆಯೆಂದೂ, ಮತ್ತು ಈ ರೀತಿ ವಿಭಾಗಮಾಡಿಕೊಡುವುದನ್ನು ಶೀಘ್ರವಾಗಿ ನೆರವೇರಿಸುವಂತೆ ತಿಳಿವಳಿಕೆಗಳನ್ನು ಕೊಡಬೇಕೆಂದೂ, ಕೆಲವು ದಿನಗಳ ಹಿಂದೆ, ಬೆಂಗಳೂರಿನ ಲಾಯರುಗಳ ಸಂಘದವರು ("ಲಾ ಅಸೋಸಿಯೇಷನ್"-ಸಂಘದವರು) ಸರ್ಕಾರದವರಲ್ಲಿ ಅರಿಕೆ ಮಾಡಿದರು. ಈ ವಿಚಾರದಲ್ಲಿ ಹೈಕೋರ್ಟಿನವರ ಅಭಿಪ್ರಾಯವನ್ನು ಕೇಳಲಾಯಿತು. ಅವರು, 54ನೆಯ ಪ್ರಕರಣದ ನಿಯಮಗಳು, ರೈತವಾರಿ ಭೂಸ್ಥಿತಿಗಳಲ್ಲದ ಭೂಸ್ಥಿತಿಗಳಿಗೆ ಮಾತ್ರ ಅನ್ವಯಿಸುವಂತೆ ಆ ಪ್ರಕರಣದ ವ್ಯಾಪ್ತಿಯನ್ನು ಪರಿಮಿತಗೊಳಿಸಬಹುದೆಂದೂ 54A. ನೆಯ ಪ್ರಕರಣವನ್ನು ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನಿಂದ ತೆಗೆದು ಹಾಕಿಬಿಡಬೇಕೆಂದೂ ಸಲಹೆ ಮಾಡಿದರು. ರೈತವಾರಿ ಜಮಿಾನುಗಳಲ್ಲದೆ ಇರತಕ್ಕ ಭೂಸ್ಥಿತಿಗಳನ್ನು ವಿಭಾಗಮಾಡಿಕೊಡಲು ರೆವೆನ್ಯೂ ಆಫೀಸರುಗಳಿಗೆ ಅನುಕೂಲವುಂಟು. ಆದುದರಿಂದ ಅಂಥ ಭೂಸ್ಥಿತಿಗಳ ವಿಷಯದಲ್ಲಿ ಮಾತ್ರ 54ನೆಯ ಪ್ರಕರಣದ ನಿಯಮಗಳು ಅನ್ವಯಿಸುವಂತೆ ಮಾಡಬೇಕೆಂದು ಹೈಕೋರ್ಟಿನವರು ಸಲಹೆ ಮಾಡಿದರು. ಹೈಕೋರ್ಟಿನವರ ಸಲಹೆಯನ್ನು ಸರ್ಕಾರದವರು ಅಂಗೀಕರಿಸಿರುತ್ತಾರೆ. ಆ ಸಲಹೆಯನ್ನು ನೆರವೇರಿಸುವ ಉದ್ದೇಶದಿಂದ ಈ ಮಸೂದಾ ಕಾನೂನನು. ಈ ಸಭೆಯ ಮುಂದೆ ತರಲಾಗಿದೆ.

ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನ (ಎರಡನೆಯ ತಿದ್ದುಪಡಿ) ಮಸೂದಾ ಕಾನೂನು

1911ನೆಯ ಇಸವಿಯ ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡನ್ನು ಈ ಮುಂದೆ ನಮೂದಿಸಿರುವ ಉದ್ದೇಶಕ್ಕಾಗಿ ಮತ್ತಷ್ಟು ತಿದ್ದುಪಾಟು ಮಾಡುವುದು ಯುಕ್ತವಾದುದರಿಂದ ;

ಈ ಕೆಳಗೆ ಕಂಡಂತೆ ಈಮೂಲಕ ಕಾನೂನನ್ನು ವಿಧಾಯಕ ಮಾಡಲಾಗಿದೆ:—

1. (1)ಈ ಆಕ್ಟನ್ನು 194 ನೆಯ ಇಸವಿಯ ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನ (ಎರಡನೆಯ ತಿದ್ದುಪಡಿ) ಆಕ್ಟು ಎಂದು ಕರೆಯಬಹುದು;

(2) ಅದು ಕೂಡಲೆ ಜಾರಿಗೆ ಬರತಕ್ಕದು.

1911ನೆಯ ಇಸವಿಯ IIIನೆಯ ನಂಬರಿನ ಆಕ್ಟಿನ 54ನೆಯ ಪ್ರಕರಣದ ತಿದ್ದುಪಾಟು.

2. 1911ನೆಯ ಇಸವಿಯ ಸಿವಿಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನ (ಇನ್ನು ಮುಂದೆ ಇದನ್ನು ಕೋಡು ಎಂದು ನಮೂದಿಸಲಾಗುವುದು) 54ನೆಯ ಪ್ರಕರಣಕ್ಕೆ ಈ ಕೆಳಗೆ ಕಂಡ ಷರತ್ತಿನ ನಿಯಮವನ್ನು ಸೇರಿಸತಕ್ಕದು. ಅದು ಯಾವುದೆಂದರೆ :—

'ಪರಂತು, 1888ನೆಯ ಇಸವಿಯ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಲ್ಯಾಂಡ್ ರೆವೆನ್ಯೂ ಕೋಡಿನ 2ನೆಯ ಪ್ರಕರಣದಲ್ಲಿ ವಿವರಿಸಿರುವ ರೀತ್ಯಾ ಅನುಭವದಾರನ ಹಿಡುವಳಿಯಲ್ಲಿರುವ ಸ್ವತ್ತಿನ ಅಥವಾ ಸ್ವತ್ತುಗಳ ವಿಭಾಗಕ್ಕಾಗಿ ಅಥವಾ ಅಂಥ ಹಿಡುವಳಿಯಲ್ಲಿನ ಒಂದು ಹಿಸ್ಸೆಯ ಪ್ರತ್ಯೇಕ ಸ್ವಾಧೀನಕ್ಕಾಗಿ ಕೊಡಲ್ಪಡತಕ್ಕ ಡಿಕ್ರಿಯ ವಿಷಯದಲಿ ಈ ಪ್ರಕರಣದಲಿ ಹೇಳಿರತಕ್ಕ ಯಾವ ಅಂಶವಾಗಲಿ ಅನ್ವಯಿಸತಕ್ಕುದಲ್ಲ.

1911ನೆಯ ಇಸವಿಯ IIIನೆಯ ನಂಬರಿನ ಆಕ್ಟಿನ 54A ಪ್ರಕರಣವನ್ನು ತಿದ್ದುಪಾಟು ಬಿಡುವುದು.

3. ಕೋಡಿನ 54 A ಪ್ರಕರಣವನ್ನು ಕೋಡಿನಿಂದ ವಜಾಮಾಡಿ ಬಿಡತಕ್ಕುದು.

Ipassed by the Legislative Council on 5th & 11th July 1943

No. Rl. 1103, *dated Bangalore, the 7th June* 1943.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the Code of Civil Procedure (Second Amendment) Bill together with the Statement of Objects and Reasons.

By Order,
C. NARAYANASWAMY NAIDU,
Secretary to Government,
Law Department.

THE CODE OF CIVIL PROCEDURE (SECOND AMENDMENT) BILL.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1911, for the purpose hereinafter following;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Code of Civil Procedure (Second Amendment) Act, 194

(2) It shall come into force at once.

Amendment of Section 54, Act III of 1911.

2. To Section 54 of the Code of Civil Procedure, 1911 (hereinafter referred to as the said Code), the following proviso shall be added, namely:

"Provided that nothing in this section shall apply to a decree for the partition of a holding or holdings of an occupant as defined in Section 2 of the Mysore Land Revenue Code, 1888, or for the separate possession of a share in such holding".

Omission of Section 54A, Act III of 1911.

3. Section 54A of the said Code shall be deleted.

D. H. Chandrasekhara 12/7/43
President
Legislative Council

Statement of objects and reasons.

Sections 54 and 54A of the Code of Civil Procedure provide that decrees for partition of estates assessed to the payment of land revenue, or for the partition of buildings situated within the limits of a Municipality, should be made

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. RL 191 - Leyn 15-43-1 Dated, Bangalore, 11th Aug 1943

Ordered that the accompanying Code of Civil Procedure (Second Amendment) Act 1943

which received the assent of His Highness the Maharaja, on the 28th day of July 1943, be published as Act No. XL of 1943, in the *Mysore Gazette*, for general information.

General Secretary to Government.
Law Department.

To

1. The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

2. Copy to the Translation Section.

No. Rl. 1103, *dated Bangalore, the 7th June* 1943.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the Code of Civil Procedure (Second Amendment) Bill together with the Statement of Objects and Reasons.

By Order,

C. NARAYANASWAMY NAIDU,

Secretary to Government,

Law Department.

Act No XIII of 1943

THE CODE OF CIVIL PROCEDURE (SECOND AMENDMENT) Act 1943

BILL.

(Received the assent of His Highness the Maharaja on the 28th day of July 1943)

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1911, for the purpose hereinafter following;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Code of Civil Procedure (Second Amendment) Act, 194 .

(2) It shall come into force at once.

Amendment of Section 54, Act III of 1911.

2. To Section 54 of the Code of Civil Procedure, 1911 (hereinafter referred to as the said Code), the following proviso shall be added, namely:

"Provided that nothing in this section shall apply to a decree for the partition of a holding or holdings of an occupant as defined in Section 2 of the Mysore Land Revenue Code, 1888, or for the separate possession of a share in such holding

Omission of Section 54A, Act III of 191

3. Section 54A of the said Code shall be deleted.

(Sd). N. Madhava Rau

Statement of objects and reasons.

Sections 54 and 54A of the Code of Civil Procedure provide that decrees for partition of estates assessed to the payment of land revenue, or for the partition of buildings situated within the limits of a Municipality, should be made

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Order No. Ql 191 /Legis. [illegible]

Dated, Bangalore, August 1948.

Ordered that the accompanying Code of Civil Procedure (Second Amendment) Act, 1948, which received the assent of His Highness the Maharaja on the 28th day of July 1948, be published as Act No. ~~XLVII~~ XL of 1948, in the Mysore Gazette for general information.

Secretary to Government,
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada, and for supply of spare copies in English and Kannada, as per standing orders.

Copy to the Translation Section.

PR. 12/8

41

No. Rl. 1103, *dated Bangalore, the 7th June* 1943.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the Code of Civil Procedure (Second Amendment) Bill together with the Statement of Objects and Reasons.

By Order,

C. NARAYANASWAMY NAIDU,

Secretary to Government,

Law Department.

Act No XL of 1943

THE CODE OF CIVIL PROCEDURE (SECOND AMENDMENT) Act 1943

~~BILL.~~

(Received the assent of His Highness the Maharaja on the 28th day of July 19

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1911, for the purpose hereinafter following;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Code of Civil Procedure (Second Amendment) Act, 194 1.

(2) It shall come into force at once.

Amendment of Section 54, Act III of 1911.

2. To Section 54 of the Code of Civil Procedure, 1911 (hereinafter referred to as the said Code), the following proviso shall be added, namely:

"Provided that nothing in this section shall apply to a decree for the partition of a holding or holdings of an occupant as defined in Section 2 of the Mysore Land Revenue Code, 1888, or for the separate possession of a share in such holding".

Omission of Section 54A, Act III of 1911.

3. Section 54A of the said Code shall be deleted.

Statement of objects and reasons.

(Sd) N. Madhava Rao
Dewan

Sections 54 and 54A of the Code of Civil Procedure provide that decrees for partition of estates assessed to the payment of land revenue, or for the partition of buildings situated within the limits of a Municipality, should be made